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Minutes of the Commission Meeting Held on December 8, 2005 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	- Ned Orleans (A – Tisbury)
P John Best (E – Tisbury)	P Megan Ottens-Sargent (E –Aquinnah)
P John Breckenridge (A – Oak Bluffs)	- Deborah Pigeon (E – Oak Bluffs)
P Christina Brown (E - Edgartown)	P Jim Powell (A – West Tisbury)
P Carlene Condon (A – Edgartown)	P Doug Sederholm (E – Chilmark)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A –Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Coordinator), Christine Flynn (Affordable Housing & Economic Planner), Jo-Ann Taylor (Coastal Planner/DCPC Coordinator)

1. COZY HEARTH CORPORATION: DRI 584

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, P. Strauss

Jim Powell and Andrew Woodruff sat in the audience.

For the Applicant: Bill Bennett, President, Cozy Hearth Corporation; Marcia Cini, Attorney for Cozy Hearth Corporation

Christina Brown explained that after four meetings for review and clarification of information submitted during the public hearing, LUPC, prior to making a recommendation on the project, crafted possible conditions. Possible conditions were written to most effectively mitigate the project's effects on the environment and community. The Commission's charge is to consider and discuss conditions, benefits, and detriments and then to reach a decision as to whether the benefits outweigh the detriments as conditioned.

Christina Brown moved and it was duly seconded that the project be approved with conditions.

1.1 Conditions

Mark London pointed out three language changes that are different from the offers revised at the last pubic hearing:

- Section 2.2: Housing Affordability: . . . *shall deed restrict four (4) additional lots for 30 years requiring that any resale during that time will be to occupants earning less than 150% of the Area Median Income for Dukes County . . .*
- Section 2.2: 2nd bullet: The sales price of any *unbuilt* restricted lot . . .
- Section 3.1: Wastewater System: added to first bullet . . . *septic systems shall also be installed for disposal of grey water from these properties in accordance with Title V and local regulations.*

Christina Brown moved and Commissioners voted to amend Acceptance of Offers to read: The Commission accepts all offers from the Cozy Hearth Community Corporation (Cozy Hearth) except where an offer is superseded by one of the conditions of the Commission.

Section 2: Housing Affordability

Section 2.1 details the applicant's offer of three houses for occupants earning 80% AMI.

Section 2.2 details the applicant's offer of four 30-year deed-restricted lots for resale to occupants earning less than 150% AMI and one lot to occupants earning less than 140% AMI. Mark London explained that 'or rental' should be deleted as it was not included in the applicant's offer.

Section 2.3 is a condition crafted by LUPC to deal with applicant's offer of a permanent deed restriction on the three lots restricted to 80% AMI.

Doug Sederholm moved and Commissioners voted that the word 'lot' be changed to 'property' throughout the offers and conditions.

Doug Sederholm moved and Commissioners voted that sentence 1 should read: ... the deed restriction shall be renewed...

Carlene Condon moved and Commissioners voted that 'applicant' be defined as including successors and assigns throughout the offers and conditions.

Doug Sederholm moved and Commissioners voted to add Section 2.3: that the intent of this condition is that to the greatest extent allowed by law these three properties shall be restricted to occupants earning 80% AMI in perpetuity. Therefore, if for any reason the 80% of AMI deed restriction should lapse or otherwise become ineffective, no property may be conveyed in excess of AMI without the seller first applying for and receiving from the Commission a change in condition.

John Breckenridge asked for clarification of 'greatest extent allowed by law.' **Doug Sederholm** said the deed restriction, unless renewed, can only last 30 years. If the restriction was not renewed, or the deed restriction was not made permanent, this condition would still apply to the development. This condition most effectively guarantees the on-going restriction.

Carlene Condon moved and Commissioners voted that the restrictions in Sections 2.3 and 2.4 apply to renters as well as owners.

- **Christina Brown** said the duration of a rental would not have to be addressed because the issue is affordability.

Section 2.4 is a condition crafted by LUPC to deal with the applicant's offer of a permanent deed restriction on the five lots with resale restrictions of 140% and 150% AMI.

Doug Sederholm moved and Commissioners voted to amend Section 2.4, 1st bullet, 5th line to read: ... this permanence shall apply to these five properties within Cozy Hearth and the owners thereof shall grant...

Doug Sederholm moved and Commissioners voted to amend Section 2.4, 1st bullet, 2nd sentence to read: ... and said deeds for these properties shall note...

Doug Sederholm moved and Commissioners voted to add to Section 2.4: The intent of this condition is that to the greatest extent allowed by law these five properties shall be restricted to occupants earning 140–150% AMI in perpetuity. Therefore if for any reason the 140-150% of AMI deed restriction should lapse or otherwise become ineffective, no property may be conveyed for consideration in excess of said AMI without the seller first applying for and receiving from the Commission a change in condition.

Mimi Davisson asked why some lots are at 140 AMI and others are at 150. **Linda Sibley** explained that, although the first owners are not required to meet eligibility requirements, they are spread out between 140 and 150 AMI.

Mark London and **Linda Sibley** noted that any owner of these five lots might sell an unbuilt lot for 3% more than what was paid for it, but the buyer would need to meet AMI restrictions.

Commissioners voted to approve Section 2.4 as amended, with Chris Murphy voting in opposition.

Section 3: Wastewater

Section 3.1 Wastewater systems to be used

Mimi Davisson asked for clarification of the additions/changes to the wastewater system proposal. **John Breckenridge** said that a composting system could be paired with a 60% Title V system for gray water. A BioClere system can't take the gray water from the composting houses and remain effective.

Section 3.2 Reports to be submitted

Mimi Davisson said it might be better to use 'licensed inspection firm' rather than only Clivus specifically.

Commissioners voted that Section 3.2, 1st bullet should read: inspection reports by the manufacturer...

Christina Brown suggested and Commissioners agreed that 'Clivus Multrum' should be changed throughout to 'manufacturer'...

Section 3.3 Circumstances under which a wastewater system can be labeled 'failed'.

Doug Sederholm suggested and Commissioners voted that 4th bullet, 1st sentence should read: ... 15 milligrams per liter or less effluent for two consecutive years.

Section 3.4 Requirements in event of wastewater system failure

Doug Sederholm asked whether the applicant intends to impose the collection of \$30,000 on the 80% AMI units and whether that would violate its obligation under 40B. **Christina Brown** suggested that there might be some issues with 40B and ZBA review. Should changes become necessary the language would come back to the Commission.

Section 3.5 Implementation of offers before Certificate of Occupancy issued

Carlene Condon suggested that the language should specifically bind the properties, not Cozy Hearth Corporation. **Marcia Cini** said she expects that there will be a regulatory agreement that will bind the applicant. The end product will be a regulatory agreement outlining all the conditions of all the permits.

Carlene Condon suggested and Commissioners voted that Section 3.5 be moved to the end of the document and that it embody all of the conditions and offers that will be part of the agreement.

Section 3.6 Composting toilets and denitrification systems to limit nitrogen loading

- **Christina Brown** presented an amendment to Section 3.6, which is intended to include more reporting and to tie the Edgartown Board of Health and the Commission together; the wording is intended to be more specific and clear but makes no substantive changes.
- **Mimi Davisson** asked for confirmation that quarterly reports will be required.
- **James Athearn** asked for confirmation that there shall be no fewer than four (4) properties served by bi-level composting toilets and grey water systems.

Chris Murphy suggested and Commissioners agreed that the word 'exclusively' be added because the intent is that four properties be served exclusively by composting toilets.

- **Christina Brown** added that composting toilets may be installed at any or all the houses.
- **Megan Ottens-Sargent** asked why the gray water system could not be addressed by the denitrification system. **John Breckenridge** said the gray water waters down the denitrification system.
- **John Breckenridge** said the condition captures a quarterly reporting and maintenance system for both composting and denitrification.

John Breckenridge suggested and Commissioners agreed to add in the third bullet, third sentence: ... at an interval of no less than every three months no later than January 15th, April 15, July 15th and October 15th.

Paul Strauss suggested and Commissioners agreed to change 'addressed' to 'submitted' in the third bullet, third sentence.

- **Kathy Newman** said the point is that the system is maintained and not neglected.

- **Doug Sederholm** suggested that potable water quality be measured for nitrogen quality so the quality of what's coming in is known. **Jo-Ann Taylor** said calculations include only what is being added.
- **Carlene Condon** asked why the Commission is requiring the applicant to measure total water volume used in each dwelling and to break out irrigation water. **Bill Bennett** said volume has to be measured to calculate the kilograms per year.
- **Doug Sederholm** said he could not accept that the applicant has the option to install composting toilets in every unit. The Commission discussed whether the Board of Health is the ultimate permit giver; Cozy Hearth cannot put in 11 composting systems unless Edgartown Board of Health has approved it. **Doug Sederholm** said he would be more comfortable if the language were more explicit.

Commissioners agreed to add to Section 3.8, first bullet ... which may be installed in any or all of the other houses if permitted by the Edgartown Board of Health.

Doug Sederholm suggested and Commissioners agreed to refer to composting toilets as 'bi-level'.

- **Doug Sederholm** asked for confirmation that the language calls for quarterly sampling of the effluent at the D-box.
- **Jo-Ann Taylor** said the 15 parts per million is the design figure at the box; 1.8 is the end result.
- **Doug Sederholm** asked about nitrogen level removal attributed to the composting toilets. **Jo-Ann Taylor** said there is not a sampling program for composting toilets, but if fluid is being removed then 95-98% of nitrogen is being removed. Gray water contribution is 2 - 5%.
- **Linda Sibley** reiterated that the critical and enforceable language is the 1.8 kg per acre per year as averaged across the entire 11-acre area.
- **Chris Murphy** said the applicant originally proposed 7 composting systems out of the 11 houses. He would like to see 11 out of 11. At the least, the Commission should require the 7, as originally proposed; if the Edgartown Board of Health wants to change the number it can.

Chris Murphy moved and it was duly seconded to change Section 3.6, first sentence to read ... 7 of the houses...

- **Doug Sederholm** said the Health Agent's memo noted that the Board of Health's overwhelming experience is that "you can't rely on a human to perform such a task long term and not see a breakdown in human performance." As soon as the waste isn't properly disposed of, the nitrogen benefit is lost. He said he couldn't support imposing 7.
- **Kathy Newman** wondered if the Commission could find language to support the use of composting toilets, such as using as many as possible with the agreement of the Board of Health.
- **Jim Athearn** suggested that the language of the amendment allows for more than four composting toilets with the approval of the Board of Health but that Chris Murphy wants to ensure the use of more composting toilets. He asked whether the Commission wants to emphasize the health of the pond or faith in human misbehavior.

- **Mimi Davisson** said reports and records would help maintain the integrity of waste disposal. She asked for confirmation that composting systems were less expensive to install than Bio-Clere.
- **Linda Sibley** said she felt that language allowed the applicant to try to persuade the Board of Health to approve more than four composting systems.
- **Chris Murphy** pointed out that the Board of Health agent said he felt human error was a big problem with privately maintained systems. The Commission has required that a service agreement be in place; he believes that will be sufficient.

A voice vote was taken. In favor: 5. Opposed: 6. The motion did not pass.

Section 3.6 Requirements in the event of wastewater system failure

Christina Brown moved and Commissioners approved Section 3.6 as proposed by Christina Brown.

Section 3.4 – Additional Condition

Doug Sederholm moved and it was duly seconded, that, notwithstanding the provisions of Section 3.4, any per household cost that would otherwise be assessed to the 80% AMI units shall be born by the 3 market rate units.

- **Kathy Newman** asked for clarification. **Doug Sederholm** explained that the replacement cost of a failed system would be divided by 11: the affordable housing lots would pay zero, the market rate lots would pay 2/11s each.
- **Christina Brown** explained that ordinarily a planning board approves a subdivision with covenants and with a homeowners association made up of all owners of all the lots that is responsible for maintaining the road, open space, etc. She suggested that in Cozy Hearth, every lot owner should belong to an association and the deeds should state that owners have to belong and have to maintain the common land.
- **Marcia Cini** said if the Commission would like to direct that the three 80% lots would not have to bear a share that would be appropriate.
- **John Best** said that homeowners under any DRI the Commission has previously approved have been responsible for their sewer. He added that these systems are much more costly than a conventional system and saying the 80% AMI properties are not responsible is a disincentive to do maintenance.
- **Mimi Davisson** said as she reads it, homeowners are not precluded from installing a composting toilet.
- **Christina Brown** said it is appropriate for the Commission to exempt the 80% AMI affordable lots, but it is not appropriate to assign how the cost would be distributed.
- **Mimi Davisson** said she is not comfortable exempting 80% AMI lots and is definitely not comfortable specifically allocating the expense.
- **Kathy Newman** said some financial responsibility is appropriate.

A voice vote was taken. In favor 2: Opposed: 10. The motion did not pass.

- **John Best** said he believed requiring the market rate lots to fully support the affordable housing lots is onerous.

John Best moved and it was duly seconded that, with respect to the offers accepted in condition 3.4, in the case of the failure of the system, the three 80%

AMI affordable homes shall each pay no more than one-third of the cost divided by 11 of a new on-site system.

- **Carlene Condon** asked what might fail. **Doug Sederholm** explained that the system is the whole subdivision. **Paul Strauss** said if any one unit exceeds the effluent level other than their proportionate share, then the whole system is considered failed.
- **Megan Ottens-Sargent** said the \$30,000 per household is the limit of what it would cost, but it wouldn't necessarily cost that much.

A voice vote was taken. In favor: 5. Opposed: 3. Abstentions: 2. The motion passed.

Commissioners took a short recess.

Doug Sederholm moved and it was duly seconded to add the condition: With respect to the offers accepted in condition 3.3 the Commission requires: The report indicating that some or all of the liquid is not being disposed of in accordance with the MVC decision can come not only from the septic haulers or from the manufacturer of the composting systems but also any other credible evidence. A voice vote was taken. In favor: 9. Opposed: 1. Abstentions: 0. The motion passed.

Linda Sibley explained that the format in the written decision would be to state the Commission accepts the applicant's offer and anything that's being modified shall be referenced to indicate that the offer has been changed. Staff and counsel will work on a format so additions and changes will be clear.

Section 4: Traffic, Parking, and Access

Section 4.1 Applicant's offer to put \$5000 in escrow for road improvements.

Section 4.2 Road association and dues.

Section 4.3 Applicant to work with neighbors on traffic safety issues.

Section 4.4 Owners and tenants shall be encouraged to use bicycles or the VTA.

- **Kathy Newman** said she believes that the three affordable units should not be exempted from contributing to the road association.
- **Christina Brown** said Affordable Homesite Lots have always been exempted.
- **Carlene Condon** said they would be using the road, so they should pay.
- **John Best** said if they're not part of the association, then they have no rights.
- **Chris Murphy** said their cars do as much damage as anybody else's.

Chris Murphy moved and it was duly second to strike exempting the three affordable housing units from paying into the road association. A voice vote was taken. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.

Mimi Davisson said the statement in Section 4.3 that 'the applicant shall make its best effort', seems a weak statement.

Mimi Davisson moved and it was duly seconded that language to make the condition more explicit in reference to safety and improving sight lines at mailboxes be included.

John Best suggested that the Commission's discussion would have very little bearing on the resolution of the issue.

A voice vote was taken. The motion did not pass.

Section 5: Landscaping

Section 5.1 outlines the applicant's offer regarding fertilizer and pesticide.

Section 5.2 describes the 20' no-cut zone.

Section 5.3 outlines the applicant's placement of \$2000 in escrow for additional screening planting.

Section 5.4 describes landscaping plant requirements.

- **Christina Brown** suggested that the intent of Section 5.3 is not to insure that there is thick or even adequate screening. The intent is that the applicant and abutters have the opportunity to negotiate with some money available.
- **John Best** said he assumed that the Edgartown Conservation Committee will be able to work with this.
- **Kathy Newman** said that the condition supports Jim Athearn's fence policy that both parties are responsible.
- **Linda Sibley** asked for clarification on the term 'native-compatible'.

Jim Athearn moved and it was duly seconded to strike Section 5.4.

- **Christina Brown** said if part of the purpose of the conservation restriction and Natural Habitat is the survival of species; limiting plantings to native and native tolerant plants can be helpful

A voice vote was taken. The motion did not pass.

John Best moved and Commissioners voted that all plants shall be native or native compatible or to the satisfaction of the holder of the conservation restriction

Section 6: Building Location and Design

Sections 6.1-6.8 outline specifics of height, square footage, roof pitch, exterior shingles, outbuildings and guesthouses.

Referencing Section 6.6 John Breckenridge moved and it was duly seconded that roof shingles shall be medium or dark gray.

- **John Best** said that that having some kind of consistency in color is less intrusive.
- **Kathy Newman** said the point made at LUPC is that houses be visually consistent.

Commissioners did not support the change in language.

- **Mimi Davisson** suggested language that the pattern of the houses shows continuity and architectural style shall be consistent so houses fit with the neighborhood. **Mark London** said there was wording in the draft covenants that covered exterior materials and described the style of the houses. **Commissioners did not support the change in language.**

John Best moved and Commissioners voted to change Section 6.6 to read white cedar shingles or cedar siding with natural wood or white trim. Roofs shall be gray shingles.

Mimi Davisson said covenants say roofs shall be dark asphalt or wood.

Carlene Condon moved and it was duly seconded to change Section 6.6 to read natural or painted trim. A voice vote was taken. The motion did not pass.

Doug Sederholm suggested that Section 6.3 contains a typographical error and should be changed to: gross floor area shall not exceed 2500 square feet.

- **Mark London** said testimony from neighbors indicates that the current average house size is less than 2500 square feet; the living area is 1600 square feet.

Doug Sederholm moved that Section 6.3 be changed to: The maximum gross floor area of any house shall not exceed 2500 square feet.

- **Mark London** clarified that the gross floor area includes porch, basement, etc.

Doug Sederholm amended his motion to read: The interior inhabitable floor area of any house shall not exceed 2500 square feet. A voice vote was taken. The motion passed.

Doug Sederholm moved and it was duly seconded that Section 6.8 be struck and changed to: Each property may construct no more than one non-habitable accessory building of no greater than 350 sq. ft. footprint and height no more than 15 ft.

- **Jim Athearn** said LUPC discussed limiting the number of outbuildings but agreed that a cluster of little sheds around a house seems okay.
- **John Breckenridge** suggested that outbuildings could be 350 square feet total.
- **Chris Murphy** said the proposal is unnecessarily restrictive; **Doug Sederholm** said the applicant is developing only four acres and will already be putting 11 houses on the acreage.

A voice vote was taken. The motion did not pass.

Christina Brown moved and Commissioners voted to change 'outbuildings' in Section 6.8 to 'non-habitable accessory structures'.

- **John Best** asked if there were a town restriction on boats in a yard; there are no restrictions on boats, but properties are limited to two unregistered cars. The Board of Health oversees livestock.
- **Mimi Davisson** said she saw nothing about architectural style; architectural style is addressed by the covenants.
- **Christina Brown** said that the point is to have moderately compatible houses. Roof pitch, shingles, and roof style are defined because it becomes very difficult to define and enforce architectural style. The homeowners association may want to define architectural style.

Chris Murphy moved to accept the covenants;

- **Christina Brown** said she remembered that Commissioners were shown covenants as a draft of what Cozy Hearth was working on and it would be inappropriate to limit them to covenants they are working on.
- **Mark London** said generally guidelines are general and that color, roof pitch and materials will create visual consistency.

Section 7: Energy Conservation

Sections 7.1-7.2 state that building should be oriented and designed for maximum solar energy efficiency and the 80% AMI affordable houses shall have Energy Star appliances.

Megan Ottens-Sargent moved and Commissioners voted that all of the properties be required to have Energy Star equipment.

John Best moved, it was duly seconded, and Commissioners voted to suspend the rules to 11:30 p.m.

Section 8: Habitat

Section 8.1 outlines the applicant's offer to create a conservation restriction and the applicant's compliance with the management plan.

Section 8.2 outlines the stipulations of shifting delimitation lines of the development envelopes and conservation area.

Section 9: Exterior Lighting

Sections 9.1-9.2 outline exterior lighting restrictions.

Megan Ottens-Sargent moved and Commissioners voted that the holder of the conservation restriction approve the lighting plan.

- **Linda Sibley** said that the Commission required non-insect-attracting lights for Pennywise Path; **Christina Brown** noted that the frost pocket at Pennywise Path did not have a conservation restriction.

Doug Sederholm moved and Commissioners voted to add that exterior lighting should be of the type that does not attract insects.

Other

Christina Brown moved and Commissioners voted there will be a homeowners association and all of the lots will be part of it forever and shall participate in it.

Christina Brown proposed and Commissioners agreed that everything has to be done before a building permit is issued.

2. COZY HEARTH: DRI NO. 584 – DELIBERATION AND DECISION

2.1 Benefits and Detriments

Christina Brown explained that Chapter 831 instructs the Commission to look at the benefits and detriments of the proposal. The major issues in this DRI are its affect on the environment and wastewater and groundwater.

Jim Athearn said in most cases when people are building houses on the land everything is a detriment.

- Cozy Hearth has mitigated the detriment to the environment with composting toilets.
- If the Commission is experimentally changing zoning, he wouldn't be doing it at Oyster Pond which he regards as one of the most pristine areas.

John Best said the homeowners are subjecting themselves to strict zoning, including reduced envelopes and a conservation restriction with habitat preservation.

Paul Strauss said this location, although it's close to a very sensitive pond, is an appropriate location for this kind of development.

- He is not comfortable with final wastewater condition allowing more than 4 composting toilets and shifting over responsibility to Edgartown Board of Health.
- Historically and data-wise large numbers of systems tend to not work over time because they are not properly maintained.

Mimi Davisson said although any development burdens the land more, if all of the lots on Watcha Path were developed to the fullest extent possible without coming before the Commission, there would be 52 houses with potentially 2.7 nitrogen load per acre; restraints on wastewater is a positive in comparison to what could be.

Mark London said benefits and detriments are not compared in relation to what could be, but the land as it is. **Linda Sibley** said she disagreed; benefits and detriments could be discussed in relation to potential use of the land.

John Breckenridge said if the Commission were to review the alternative of a 30-bedroom build-out, it would be allowing more nitrogen than proposed by this project.

Jim Athearn pointed out that with 11 households there will be an increase in neighborhood noise.

Traffic

Jim Athearn said the project has many detriments; on the basis of Watcha Path alone, the project would have to be denied. Everyone will be frustrated daily by the number of cars and the one-lane road, a recipe for a degraded life.

Doug Sederholm agreed with Jim Athearn; he has not yet seen a reasonable plan the intersection with Edgartown Road. He is concerned with the impact on the quality of Watcha Path and on the quality of life for people in the neighborhood.

Chris Murphy said you can't prohibit people from using their land because it makes a difficult traffic situation. The homeowners on this road will have to figure out their own solution to the traffic.

Christina Brown agreed that Watcha Path is a nice narrow country road; she did not agree that traffic is a reason to deny this project, but the intersection is a problem.

Scenic Values

Linda Sibley outlined the considerations of scenic values in relation to a DRI.

Carlene Condon moved and Commissioners voted to suspend the rules for 30 minutes.

Jim Athearn said the irony is that a lot of open land that Islanders rely on for scenic values is owned by private parties who have the right to do what they want with the land. He outlined the potential for development of the 11 acres. The detriment exists when the land is developed, no matter how it's developed.

Kathy Newman said as an overall regional impact, the project wouldn't have the same visual impact as if it were on the West Tisbury Road. Islanders don't have the luxury of having all open space remain open space, so Commissioners have to figure out the best use to retain quality of life on the Island.

Character and Identity:

Jim Athearn encouraged Commissioners to avoid the suburban and support the rural.

- A few of the neighbors testified that they settled in the area with agricultural in mind. Soil maps indicate a significant band of good soil; small farms in the area might thrive.
- Three-acre zoning is a weak defense for open space, but it's all there is.
- He would like the Commission in dealing with the far reaches of Edgartown to make decisions that swing in favor of rural rather than suburban.

Megan Ottens-Sargent noted that new regulations coming out of Natural Heritage might limit agricultural use.

- With this project, Natural Heritage, working with a larger parcel, was able to protect wildlife corridors linking Sheriff's Meadow land with the long corridors to the water. The conservation restriction is a benefit.
- A detriment is that the neighborhood is based on agrarian values; the conservation restriction limits this development's ability to simulate agricultural values based on density and how little land is available.

Impact on Abutters

Chris Murphy said the decision comes down to weighing the impact on abutters against the supply of low and moderate-income house. There is no question that this will have a major impact on abutters.

Paul Strauss said there has been talk about screening from abutters but traffic will have the most impact, which causes him some concern.

Supply of Affordable Housing

Carlene Condon said affordable housing is the shining star of the project, providing 8 affordable houses for 8 Vineyard families.

- She agreed with Jim Athearn and said, however, that the applicant has worked hard to minimize the detriments.
- She understands that the project is 11 houses where there might otherwise be 6 to 9 houses.
- There's no guarantee that open space would be the end result if this project weren't approved. The affordable housing shines brighter than the detriments.

Chris Murphy said affordable housing is the key.

- This decision is a referendum on the Island as a community; if Islanders can't help the young people of the community then they have failed.
- The impact on neighbors will be significant but it will have a positive impact on the rest of the island.
- The results are good, the applicant should be proud and the Commission should be proud.

Jim Athearn said if it allows the project, the Commission fails as the protector of the principles of Chapter 831.

- It's hard to look at a group of young people who want housing and say no, but if Islanders don't say no they will lose the island.
- According to sustainable development principles, redevelopment should be first and centered in community centers; development of new infrastructure in undeveloped areas should be avoided.
- He admires the applicant's plan, but it goes against planning principles.

Christina Brown said the Island would benefit from smart growth housing.

- The Commission struggles to support those principles; due to land scarcity decisions about affordable housing may have to be based on opportunity rather than suitability.
- The Commission can work toward smart growth, but the Island may see limited-size affordable housing projects scattered throughout the Island.

Kathy Newman said Commissioners all believe in smart growth.

- There is an agrarian principle at work in the project; it grew out of the Island and it's about adding living spaces for the people who work on the Island.
- Commissioners might prefer that the project were in town but she is very impressed with the creativity of putting this together.

John Best said it's an unfortunate location but he hasn't seen anything more appropriate become available.

- Unfortunately the process of developing affordable housing requires a level of scale. These numbers are truly marginal for what they can do.
- Most distinctive is that five people through their own initiative are creating affordable housing.
- That the affordability is in perpetuity makes him able to support it.

Jim Athearn said he wished people would get away from the idea that creating affordable housing requires land. 7471 new houses were built on the Island in 24 years; 3000 in Edgartown. Existing buildings can be used for affordable housing.

Burden on other Public Facilities

Christina Brown said the project impacts the Edgartown Wastewater Treatment Plant; the Commission received a letter saying it can accept the sewage from composting systems.

Consistency with Ability to Achieve Town etc. Objectives.

Megan Ottens-Sargent said the project would add to the number of affordable housing units in Edgartown so that eventually the town wouldn't be subject to 40Bs.

John Best moved and Commissioners voted to suspend the rules for 15 minutes.

Christina Brown said creating moderate to low-income affordable housing is consistent with the Edgartown Master Plan and the Community Development.

Jim Athearn noted that in relation to regional objectives the project is probably a wash; objectives are to keep a healthy downtown but as lots outside of town are developed there is more and more pressure to move retail to the business park.

Megan Ottens-Sargent referenced Policy Plan K, Section A:

- The project presents detriments in relation to the plan which emphasizes creating new units in existing areas; maintaining environmental quality and open space; it calls for housing needs to be met imaginatively while preserving Vineyard character.
- Open space and conservation sections emphasize protecting farmland, aquifer and natural habitats. New land use should conform to the traditional land-use pattern and enhance traditional values.

Conforms to Zoning

Linda Sibley referenced Chapter 831 which requires that Commissioners determine whether the proposed development is consistent with zoning; if zoning is inconsistent, it is necessary to enable a substantial portion of the larger population to secure adequate opportunities for housing, education, or recreation.

Doug Sederholm questioned the definition of 'a substantial segment of the population.' He said that Pennywise Path arguably addresses the needs of a substantial segment of Edgartown; he's not sure this project does.

Doug Sederholm observed that for him this project holds the record for the amount of attention the Commission has spent on a project.

- What was originally proposed would be denied because it wasn't clustered and there was no conservation. The nitrogen reduction was going to be equivalent to 3 houses with guest houses. It was twice the nitrogen level. There are now 8 permanently restricted affordable units.
- This is a much better project than originally proposed as a result of the prodding of the Commission. The Commission has taken heat for its deliberation but the deliberation has created a project that's a much tougher call.
- If it weren't for the affordability aspect it would be easier to deny. The project goes against what planners are trying to preserve; it is a most unfortunate location.

Kathy Newman said the Commission has pushed and prodded the project; but the applicant has worked hard, too. A lot of people come in with an idea but may be naïve about the process.

Doug Sederholm said he doesn't believe that there is anything naïve about the applicant and he has been well represented. The applicant has shown a great deal of flexibility and willingness to improve the project.

Jim Athearn said that 3-acre zoning maintains open-space. He is concerned with setting a precedent; if the Commission approves this project, it will encourage future projects of this sort. It will be harder to hang onto the rural land the Vineyard has.

John Best moved and Commissioners voted to extend the meeting until 12:30 a.m.

Paul Strauss had questioned whether this was really an affordable housing proposal.

- There is future promise of affordable housing that isn't necessarily part of the first phase so he can't give it as high marks for providing affordable housing.
- If there were more clustering it would be more acceptable.
- He would be more supportive if the perceived traffic problem were truly resolved and if the wastewater were resolved with even lower nitrogen loading.
- The benefits don't necessarily outweigh the detriments and it's not an easy decision.

John Breckenridge said he doesn't believe that the Island will be able to preserve rural values unless islanders have housing.

- Islanders have a sense of the island, its values, its history and respect for the Island. People who are building summer home aren't going to be preserving the same rural feel.
- This is a development that provides a sense of community that will help preserve rural character.

Linda Sibley said that character is under assault from people building oversized houses and from developers who are creating suburban developments to sell to seasonal residents.

- She feels quite certain that the alternative at the site is three big houses with guest houses.
- The project is in the wrong location and it is larger than she would like but the alternative is untenable. Island people are part of Island character.

John Best said if this were a precedent setting approval he wouldn't support it. The project is unique. Nothing about this project that makes this a compelling project for a developer; anyone else would be looking to make a profit.

Doug Sederholm, referencing Section 1 of Chapter 831, said, as much as he thinks this is the wrong place for this development, the fact that the Commission and the applicant are creating affordable housing makes the project supportable; he added that it is an excruciatingly painful decision.

Jim Athearn acknowledged Linda Sibley's comments about being realistic; he said 'we have met the enemy and he is us' and asked when do we start saying no.

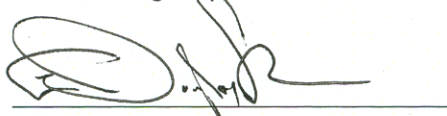
A voice vote was taken on the motion to approve the project with conditions. In favor: J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, D. Sederholm, L. Sibley. Opposed: J. Athearn, M. Ottens-Sargent, P. Strauss. The motion passed.

3. NOMINATING COMMITTEE

John Best and Commissioners voted to suspend the rules for an additional 5 minutes.

John Best reported that the Nominating Committee puts forward the existing slate of Linda Sibley as Chair, Doug Sederholm as Vice Chair, and Ned Orleans as Secretary/Treasurer. The members will vote for officers at its December 15 meeting.

The meeting adjourned at 12:30 a.m.



Chairman



Clerk-Treasurer

4-5-07

Date

4-5-07

Date